

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
 CHUN KULL CHUNG, M.D.)
 Certificate No. A-32598)
)
 Respondent.)


No. 11-94-37758

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on October 13, 1997.

IT IS SO ORDERED October 6, 1997.

By: 
IRA LUBELL, M.D.
Chairperson, Panel A
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 CINDY M. LOPEZ,
Deputy Attorney General, State Bar No. 119988
3 California Department of Justice
300 South Spring Street
4 Los Angeles, California 90013
Telephone: (213) 897-7373
5 Attorneys for Complainant

7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation)	Case No. 11-94-37758
Against:)	
12)	OAH No.
13 CHUN KULL CHUNG, M.D.)	STIPULATED SETTLEMENT
1028 Ridge Crest Street)	AND
Monterey Park, California 81754)	DISCIPLINARY ORDER
14 Physician and Surgeon's Certificate)	
15 No. A32598,)	
16 Respondent.)	

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the
19 parties to the above-entitled proceedings that the following
20 matters are true:

21 1. An Accusation in case number 11-94-37758 was filed
22 with the Division of Medical Quality, of the Medical Board of
23 California Department of Consumer Affairs (the "Division") on
24 January 14, 1997, and is currently pending against Chun Kull
25 Chung, M.D. (the "respondent").

26 2. The Accusation, together with all statutorily
27 required documents, was duly served on the respondent on or about

1 January 14, 1997, and respondent filed his Notice of Defense
2 contesting the Accusation on or about January 19, 1997.

3 3. The Complainant, Ron Joseph, is the Executive
4 Director of the Medical Board of California and brought this
5 action solely in his official capacity. The Complainant is
6 represented by the Attorney General of California, Daniel E.
7 Lungren, by and through Deputy Attorney General Cindy M. Lopez.

8 4. The respondent is represented in this matter by
9 O'Flaherty & Belgum, Esq., whose address is C. Snyder Patin,
10 Daniel Dik, 100 Oceangate, Ste 500, Long Beach, CA 90802.

11 5. The respondent and his attorney have fully
12 discussed the charges contained in Accusation Number 11-94-37758,
13 and the respondent has been fully advised regarding his legal
14 rights and the effects of this stipulation.

15 6. At all times relevant herein, respondent has been
16 licensed by the Medical Board of California under Physician and
17 Surgeon's Certificate No. A32598.

18 7. Respondent understands the nature of the charges
19 alleged in the Accusation and that, if proven at hearing, the
20 charges and allegations would constitute cause for imposing
21 discipline upon his Physician and Surgeon's Certificate.
22 Respondent is fully aware of his right to a hearing on the
23 charges contained in the Accusation, his right to confront and
24 cross-examine witnesses against him his right to the use of
25 subpoenas to compel the attendance of witnesses and the
26 production of documents in both defense and mitigation of the
27 charges, his right to reconsideration, appeal and any and all

1 other rights accorded by the California Administrative Procedure
2 Act and other applicable laws. Respondent knowingly, voluntarily
3 and irrevocably waives and give up each of these rights.

4 8. For the purpose of resolving Accusation No.
5 11-94-37758 without the expense and uncertainty of further
6 proceedings, respondent agrees that, at a hearing, complainant
7 could establish a factual basis for the charges in the
8 Accusation, and that respondent hereby gives up his right to
9 contest those charges. Respondent agrees to be bound by the
10 Division's Disciplinary Order as set forth below.

11 9. Based on the foregoing admissions and stipulated
12 matters, the parties agree that the Division shall, without
13 further notice or formal proceeding, issue and enter the
14 following order:

15
16 **DISCIPLINARY ORDER**

17 IT IS HEREBY ORDERED that Physician and Surgeon's
18 Certificate number A32598 issued to Chun Kull Chung, M.D. is
19 revoked. However, the revocation is stayed and respondent is
20 placed on probation for 3 (three) years on the following terms
21 and conditions.

22 1. **MONITORING**

23 Within 30 days of the effective date of this decision,
24 respondent shall submit to the Division or its designee for its
25 approval the name of a physician who shall monitor forty (40) of
26 respondent's anesthetics by the end of December, 1997. The
27 monitor shall be an anesthesiologist, and shall provide periodic

1 reports to the Division or its designee.

2 If the monitor resigns or is no longer available,
3 respondent shall, within 15 days, move to have a new monitor
4 appointed, through nomination by respondent and approval by the
5 Division or its designee.

6 Respondent is prohibited from engaging in solo
7 practice.

8
9 **2. ORAL CLINICAL OR WRITTEN EXAM**

10 In the event it is determined by respondent's monitor
11 that respondent cannot safely practice medicine, he must cease
12 practicing medicine and take and pass an oral clinical
13 examination. It shall be in the subject of anesthesiology. If
14 respondent fails the first examination, respondent shall be
15 allowed to take and pass a second examination, which may consist
16 of a written as well as an oral examination. The waiting period
17 between the first and second examinations shall be at least three
18 months. The respondent shall pay the costs of all examinations.

19 **3. OBEY ALL LAWS**

20 Respondent shall obey all federal, state and local
21 laws, all rules governing the practice of medicine in California,
22 and remain in full compliance with any court ordered criminal
23 probation, payments and other orders.

24 **4. QUARTERLY REPORTS**

25 Respondent shall submit quarterly declarations under
26 penalty of perjury on forms provided by the Division, stating
27 whether there has been compliance with all the conditions of

1 probation.

2 5. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE**

3 Respondent shall comply with the Division's probation
4 surveillance program. Respondent shall, at all times, keep the
5 Division informed of his or her addresses of business and
6 residence which shall both serve as addresses of record. Changes
7 of such addresses shall be immediately communicated in writing to
8 the Division. Under no circumstances shall a post office box
9 serve as an address of record.

10 Respondent shall also immediately inform the Division,
11 in writing, of any travel to any areas outside the jurisdiction
12 of California which lasts, or is contemplated to last, more than
13 thirty (30) days.

14 6. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
15 DESIGNATED PHYSICIAN(S)**

16 Respondent shall appear in person for interviews with
17 the Division, its designee or its designated physician(s) upon
18 request at various intervals and with reasonable notice.

19 7. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR
20 IN-STATE NON-PRACTICE**

21 In the event respondent should leave California to
22 reside or to practice outside the State or for any reason should
23 respondent stop practicing medicine in California, respondent
24 shall notify the Division or its designee in writing within ten
25 days of the dates of departure and return or the dates of non-
26 practice within California. Non-practice is defined as any
27 period of time exceeding thirty days in which respondent is not
engaging in any activities defined in Sections 2051 and 2052 of

1 the Business and Professions Code. All time spent in an
2 intensive training program approved by the Division or its
3 designee shall be considered as time spent in the practice of
4 medicine. Periods of temporary or permanent residence or
5 practice outside California or of non-practice within California,
6 as defined in this condition, will not apply to the reduction of
7 the probationary period.

8 **8. COMPLETION OF PROBATION**

9 Upon successful completion of probation, respondent's
10 certificate shall be fully restored.

11 **9. VIOLATION OF PROBATION**

12 If respondent violates probation in any respect, the
13 Division, after giving respondent notice and the opportunity to
14 be heard, may revoke probation and carry out the disciplinary
15 order that was stayed. If an accusation or petition to revoke
16 probation is filed against respondent during probation, the
17 Division shall have continuing jurisdiction until the matter is
18 final, and the period of probation shall be extended until the
19 matter is final.

20 **10. COST RECOVERY**

21 The respondent is hereby ordered to reimburse the
22 Division the amount of \$6,000 within 90 days from the effective
23 date of this decision for its investigative and prosecution
24 costs. Failure to reimburse the Division's cost of its
25 investigation and prosecution shall constitute a violation of the
26 probation order, unless the Division agrees in writing to payment
27 by an installment plan because of financial hardship. The filing

1 of bankruptcy by the respondent shall not relieve the respondent
2 of his/her responsibility to reimburse the Division for its
3 investigative and prosecution costs.

4 **11. LICENSE SURRENDER**

5 Following the effective date of this decision, if
6 respondent ceases practicing due to retirement, health reasons or
7 is otherwise unable to satisfy the terms and conditions of
8 probation, respondent may voluntarily tender his certificate to
9 the Board. The Division reserves the right to evaluate the
10 respondent's request and to exercise its discretion whether to
11 grant the request, or to take any other action deemed appropriate
12 and reasonable under the circumstances. Upon formal acceptance
13 of the tendered license, respondent will no longer be subject to
14 terms and conditions of probation.

15 **CONTINGENCY**

16 This stipulation shall be subject to the approval of
17 the Division. Respondent understands and agrees that Board staff
18 and counsel for complainant may communicate directly with the
19 Division regarding this stipulation and settlement, without
20 notice to or participation by respondent or his counsel. If the
21 Division fails to adopt this stipulation as its Order, the
22 stipulation shall be of no force or effect, it shall be
23 inadmissible in any legal action between the parties, and the
24 Division shall not be disqualified from further action in this
25 matter by virtue of its consideration of this stipulation.

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1 DATED: September 15, 1997.

2 DANIEL E. LUNGREN, Attorney General
3 of the State of California

4 Cindy M. Lopez
5 CINDY M. LOPEZ
6 Deputy Attorney General

7 Attorneys for Complainant
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 11-94-37758
Against:)

12 **CHUN KULL CHUNG, M.D.**)
13 1028 Ridge Crest Street)
Monterey Park, California 81754)

14 Physician and Surgeon's Certificate)
15 No. A32598,)

16 Respondent.)
17

ACCUSATION

18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ron Joseph, is the Executive Director
21 of the Medical Board of California (hereinafter the "Board") and
22 brings this accusation solely in his official capacity.

23 2. On or about July 5, 1978, Physician and Surgeon's
24 Certificate No. A32598 was issued by the Board to Chun Kull Chung,
25 M.D. (hereinafter "respondent"), and at all times relevant to the
26 charges brought herein, this license has been in full force and
27 effect. Unless renewed, it will expire on July 31, 1998.

JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code"):

A. Section 2227 provides that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act.

B. Section 2234 provides that unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate."

C. Section 125.3 provides, in part, that the Board may request the administrative law judge to direct any licensee found to have committed a violation or violations of the

1 licensing act, to pay the Board a sum not to exceed the
2 reasonable costs of the investigation and enforcement of the
3 case.

4 D. Section 16.01 of the 1996/97 Budget Act of the State
5 of California provides, in pertinent part, that: (a) no funds
6 appropriated by this act may be expended to pay any Medi-Cal
7 claim for any service performed by a physician while that
8 physician's license is under supervision or revocation due to
9 a disciplinary action of the Medical Board of California; and
10 (b) no funds appropriated by this act may be expended to pay
11 any Medi-Cal claim for any surgical service or other invasive
12 procedure performed on any Medi-Cal beneficiary by a physician
13 if that physician has been placed on probation due to a
14 disciplinary action of the Medical Board of California related
15 to the performance of that specific service or procedure on
16 any patient, except in any case where the board makes a
17 determination during its disciplinary process that there exist
18 compelling circumstances that warrant continued Medi-Cal
19 reimbursement during the probationary period.

20
21 IN RE: E.A.

22 A. E.A. was a female adult individual who at all
23 times relevant herein resided in the State of California.^{1/}

24 B. On or about October 18, 1993, E.A., an 88 year-
25

26 1. For privacy reasons, only the initials of the patient's
27 name will be used in this Accusation. The full name will be
 disclosed by respondent in discovery upon request.

1 old woman, fell at her home and was taken to Doctor's
2 Hospital. She went to the Emergency Room and it was
3 determined that she had a hip fracture and she was scheduled
4 for surgery for October 19.

5 C. On or about the morning of October 19, 1993,
6 E.A. was seen by respondent and she was rendered "medically
7 stable for surgery." A spinal anesthesia was administered to
8 her by respondent.

9 D. E.A. was taken to surgery at 10:30 a.m.
10 Anesthesia was started at 11:00 a.m. There was no charting of
11 her heart or pulse rate or respiration. Cement used in hip
12 surgeries was placed on her hip between 12:20 and 12:25, and
13 shortly thereafter, there was marked hypotension (low blood
14 pressure) and bradycardia (slowness of heartbeat). E.A. was
15 intubated without any muscle relaxant and transferred to the
16 intensive care unit.

17 E. E.A. arrived at the Intensive Care Unit at 1:08
18 p.m. and placed on a respirator. E.A. required CPR.

19 20 CAUSES FOR DISCIPLINE

21 I

22 (Gross Negligence)

23 4. Respondent Chun Kull Chung, M.D. is subject to
24 disciplinary action under section 2234(b) of the Business and
25 Professions Code in that respondent was grossly negligent in the
26 care and treatment of E.A. The circumstances are as follows:

27 A. Respondent failed to seek out the necessary

1 information regarding the appropriate choice of anesthesia.
2 Giving E.A. a spinal anesthesia was not the appropriate choice
3 given her physical condition.

4 B. Respondent failed to maintain appropriate
5 record-keeping regarding E.A.'s heart, pulse rate and
6 respiratory rate.

7 C. Respondent failed to place an intra-arterial
8 line in the patient. This would have allowed E.A.'s blood
9 pressure to be monitored more closely.

10 D. Respondent should not have transferred E.A. to
11 the Intensive Care Unit when she was in such distress.
12 Rather, E.A. should have remained in the operating room where
13 all the necessary equipment could have been used immediately.

14 E. Respondent failed to assure adequate ventilation
15 and monitoring during the surgery.

16 F. Respondent failed to maintain adequate
17 oxygenation of E.A. during her surgery. Performing a hip
18 surgery on an elderly patient requires that the patient have
19 plenty of fluids so that she was properly oxygenated prior to
20 surgery, and this was respondent's obligation.

21 II

22 (Incompetence)

23 5. Respondent Chun Kull Chung, M.D. is subject to
24 disciplinary action under section 2234(d) of the Business and
25 Professions Code in that respondent was incompetent in the care and
26 treatment of E.A. The circumstances are as follows:

27 A. The facts and allegations contained in paragraph

1 4 above are incorporated here as if fully set forth herein.

2 III

3 (Repeated Negligent Acts)

4 6. Respondent Chun Kull Chung, M.D. is subject to
5 disciplinary action under section 2234(c) of the Business and
6 Professions Code in that respondent committed repeated negligent
7 acts in the care and treatment of E.A. The circumstances are as
8 follows:

9 A. The facts and allegations contained in paragraph
10 4 above are incorporated here as if fully set forth herein.

11 PRAYER

12 WHEREFORE, the complainant requests that a hearing be
13 held on the matters herein alleged, and that following the hearing,
14 the Division issue a decision:


15 1. Revoking or suspending Physician and Surgeon's
16 Certificate Number A32598, heretofore issued to respondent Chun
17 Kull Chung, M.D.;

18 2. Revoking, suspending or denying approval of the
19 respondent's authority to supervise physician's assistants,
20 pursuant to Business and Professions Code section 3527;

21 3. Ordering respondent to pay the Division the actual
22 and reasonable costs of the investigation and enforcement of this
23 case;

4. Taking such other and further action as the Division
deems necessary and proper.

DATED: JANUARY 14, 1997



Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant